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Item 5 of the provisional agenda

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Note by the Secretariat

Addendum

Contribution submitted by the secretariat of the International Year of the World's Indigenous People

The attention of the Preparatory Committee is drawn to the attached contribution containing comments and recommendations provided by the secretariat of the International Year of the World's Indigenous People. These comments and recommendations are related to the six objectives listed in document A/CONF.157/PC/20 and to the nine draft studies addressing these objectives.

General comments

1. General Assembly resolution 45/155 identifies six objectives of the World Conference on Human Rights. Nine draft studies addressing these objectives were distributed in January 1993 for comments by staff members and a meeting was held in early February to discuss the papers. No commentary has been made by the staff responsible for the indigenous peoples' programme either in writing or orally on the contents of the papers or about the objectives of the Conference itself. The following comments are offered so that they can be included, if so desired, in the final background documents of the Conference.

2. It should be noted that only three of the papers make any reference to the question of indigenous peoples. In two of the papers there are brief en passant comments; in the third paper, dealing with future organization of the Centre for Human Rights, there is a description of the main activities being undertaken by the Centre. This is, in the view of those of us working on the indigenous peoples' programme, an omission. It may be worth making the following points:

(a) Indigenous peoples is an item on the agenda of the World Conference;

(b) 1993 is the International Year of the World's Indigenous People;

(c) The Working Group on Indigenous Populations is the third largest human rights meeting for which the Centre is responsible (after the Commission and Sub-Commission);

(d) The draft declaration on the rights of indigenous people is one of only two standard-setting activities being handled by the Centre;

(e) The views of indigenous people on a wide range of issues - development, environment, culture, human rights, democracy, participation in the United Nations system, etc. - offer important perspectives of a general nature;

(f) The 300 million indigenous people living in more than 70 countries is the single most disadvantaged group in the world.

Objective 1

> "To review and assess the progress that has been made in the field of human rights since the adoption of the Universal Declaration of Human Rights and to identify obstacles and ways in which they can be overcome to further progress in this area" (resolution 45/155, para. 1 (a))

3. There has been virtually no progress made in the field of human rights for indigenous peoples at the international level. The two exceptions are the ILO's Conventions No. 107 (1957) and No. 169 (1989) which are only binding on those countries which have ratified, 27 and 4 respectively. A number of steps have been taken by the United Nations to begin the process of protecting and promoting indigenous peoples' rights. These include the preparation of a study by a Special Rapporteur of the Sub-Commission on discrimination against indigenous populations (the Cobo report), the establishment since 1982 of a Working Group on Indigenous Populations to review developments and elaborate standards, the creation of a Voluntary Fund for Indigenous Populations to assist indigenous people attend the Working Group, and the proclamation by the General Assembly of an International Year together with a special fund

4. A draft declaration has been elaborated by the Working Group on Indigenous Populations and may be completed by July 1993. As it stands, it contains many of the elements indigenous people believe are important. There has been a high level of active participation of indigenous people and the

Working Group members have tried to reflect their concerns as far as possible. However, of great concern to all indigenous people is the future both for the draft declaration and the Working Group. Will indigenous people be able to participate fully and equitably when the draft declaration is considered by the Commission? Will the text of the draft declaration be changed substantively and will it become weaker and, therefore, ineffective in protecting the rights of indigenous people? What will happen to the Working Group, the only forum in the United Nations system addressing indigenous peoples' questions, and its work on review of developments and its studies, when the draft declaration moves to the Commission?

5. The first question being asked by indigenous people is, thus, not what prevents further progress in human rights, but how can they save the few small gains they have made? It is, therefore, recommended that the background papers for the Conference include a strong endorsement of the draft declaration, the Working Group and the studies and other work undertaken in this area.

Objective 2

> "To examine the relation between development and the enjoyment by everyone of economic, social and cultural rights as well as civil and political rights, recognizing the importance of creating the conditions whereby everyone may enjoy these rights as set out in the International Covenants on Human Rights" (resolution 45/155, para. 2 (b))

6. Indigenous people have sometimes been identified as the victims of progress. Development for many indigenous people means invasion of their territories by settlers, ranchers and miners, displacement without notice or compensation, destruction to their environment, sacred sites and subsistence base, and degradation of their cultures. Development is bad news for many indigenous people. Development violates their economic, social and cultural rights as well as their civil and political rights. What is development for some can be ethnocide for others.

7. Indigenous people are not opposed to development as such. But many national development plans take place without consultation with indigenous people and bring no benefits to them. Some of these projects are presently funded by multilateral financial institutions. There is now a recognition of the need to promote sustainable development by protection of the environment and the sustainable use of resources but no explicit prevention of development which may be destructive to indigenous or other people. The draft declaration on the rights of indigenous people creates a framework for a relationship between indigenous people and the development process based on consent, protection of lands and respect for the environment. The relationship is expressed in the Final Declaration of the United Nations Conference on Environment and Development (UNCED) and Chapter 26 of Agenda 21.

8. It is recommended that the paper dealing with objective 2 includes reference to the negative impact of certain forms of development especially

on indigenous people and urges that indigenous people are involved in the planning, implementation and evaluation of all development projects affecting them.

Objectives 3 and 4

"To examine ways and means to improve the implementation of existing human rights standards and instruments" (resolution 45/155, para. 2 (c))

"To evaluate the effectiveness of the methods and mechanisms used by the United Nations in the field of human rights" (resolution 45/155, para. 1 (d))

9. Notwithstanding the need to elaborate rights taking into account the specific situations of indigenous people, existing rights offer considerable protection if they are implemented. None the less, indigenous people suffer human rights violations in many countries. In part this is because indigenous people are a vulnerable group in society with little political or economic leverage; in part because, generally speaking, indigenous people are unaware of the protection accorded them in national laws and international human rights standards.

10. The existing United Nations mechanisms for the protection of human rights do not bring sufficient benefits to indigenous people. Indigenous people are not able to participate in the major human rights meetings because the vast majority do not belong to non-governmental organizations in consultative status with the Economic and Social Council; they are not invited to provide information to the treaty bodies; they use only rarely the special procedures established under the Covenants.

11. It is recommended that the papers covering objectives 3 and 4 examine how particular target groups including indigenous people can receive greater information about the United Nations and its human rights protection in their own languages and benefit from training courses. It is also recommended that the papers make suggestions about how indigenous people can participate in all meetings of the United Nations which affect them and be invited to provide information to the United Nations treaty bodies and other relevant monitoring committees.

Objective 5

"To formulate concrete recommendations for improving the effectiveness of United Nations activities and mechanisms in the field of human rights through programmes aimed at promoting, encouraging and monitoring respect for human rights and fundamental freedoms" (resolution 45/155, para. 1 (e)

12. One of the purposes of the International Year is to examine how the United Nations can improve its effectiveness and provide a better service to indigenous people. A series of consultations of the United Nations system and indigenous people are taking place so that different ideas and suggestions can be gathered. The Working Group on Indigenous Populations is one such forum

but the two technical meetings on the International Year and the informal meeting of the United Nations agencies and indigenous peoples of 11 December 1992 (following the inauguration of the Year in New York) have also produced a number of recommendations. Other suggestions are being made in the informal contacts of the Centre for Human Rights and indigenous organizations and through correspondence. Based on these sources, it is possible to make some concrete recommendations.

Participation

13. A major obstacle to the full enjoyment of human rights of indigenous people is the difficulty of participation in the United Nations and its organs. This will become increasingly critical as the draft declaration passes through the parent bodies of the Working Group. A number of suggestions have been made: (a) revise ECOSOC resolution 1296 (XLIV) of 1968 to allow participation of indigenous peoples' organizations on the same basis as NGOs: (b) establish a United Nations register of indigenous peoples' organizations and nations which could be used as the basis for participation in all relevant United Nations meetings; (c) consider how representatives of indigenous people can enjoy observer status as it is accorded to the ANC, PLO, ICRC, etc.; (d) develop and encourage a policy of recruitment of qualified indigenous people into the United Nations and its agencies; (e) establish a high-level task force of indigenous people to advise the United Nations on policy making.

Standard setting

14. Many indigenous people are of the opinion that if the draft declaration is adopted by the Working Group, it should move rapidly to the General Assembly. This decision will be taken by the Commission and not the Centre. However, the secretariat can play a role in helping raise awareness and understanding of the draft declaration in the following ways: (a) by holding future annual meetings of the Working Group in Asia and Latin America; (b) by printing copies of the draft declaration in indigenous languages; (c) by supporting workshops on the draft declaration in indigenous areas; (d) by preparing a lay-person's commentary on the draft declaration.

Implementation of human rights standards

15. The focus of the World Conference is on implementation and, therefore, some thought should go into possible improvements of mechanisms relating to indigenous people. A number of suggestions have been made by indigenous people: (a) the draft declaration could contain some implementation mechanism; (b) the Working Group, with its review of developments mandate, could produce an annual report on the situation of indigenous people; (c) the secretariat could inform indigenous people on an ongoing basis about the human rights meetings taking place so that they can participate and provide information; (d) an ombudsperson or United Nations commissioner to investigate human rights violations against indigenous people and to help in arbitration between States and indigenous people could be appointed.

Coordination of the United Nations system

16. The purpose of the International Year is to increase international cooperation to solve some of the problems faced by indigenous people. Coordination of the United Nations system is considered by governments, indigenous people and the responsible United Nations officials as vital to any long-term improvements. A number of suggestions have been made in this connection: (a) the establishment of focal points in all United Nations agencies for indigenous people; (b) the creation of a panel of indigenous experts to advise and provide assistance to United Nations agencies; (c) the establishment of a permanent body in the United Nations to provide advice, coordination and information regarding indigenous people; (d) establishment of a database on indigenous people and their economic and social situation to assist planning of programmes.

An integrated United Nations programme

17. Indigenous people have argued that the International Year should signal the beginning of a major new thrust in United Nations action in all areas including human rights, development, technical assistance, environmental protection, cultural activities and so on. A number of ideas have been floated about what such a programme might contain. They include the following suggestions: (a) the establishment of a decade for indigenous people from 1994 to 2003 to strengthen the processes begun during the International Year; (b) the holding of a high-level conference on indigenous people; (c) the establishment of a permanent fund to assist indigenous people directly through technical and project assistance; (d) holding a world indigenous trade fair to open up self-development opportunities.

Objective 6

> "To make recommendations for ensuring the necessary financial and other resources for United Nations activities in the promotion and protection of human rights and fundamental freedoms (resolution 45/155, para. 1 (f))

18. At present the United Nations provides virtually no human, financial or logistical resources for work on indigenous people. The Centre for Human Rights is the focal point for all indigenous matters within the United Nations and, thus, receives every communication, inquiry and call. Yet the United Nations provides only one staff member (on a temporary basis since 1 April 1991), one secretary who can devote only about one third of her time to indigenous peoples, one office 4 m x 5 m, and no budget. If the Centre receives 0.7 per cent of the total United Nations budget then it can be assumed that indigenous people get 0.007 per cent set aside to serve them. The 300 million indigenous people in the world are the most underserved group in the United Nations and when compared with other groups - refugees, children, women, etc. - can be said to be ignored by the international community

19. It may be noted that the Centre for Human Rights together with the ILO has always played a leading role in developing indigenous peoples' rights. The Working Group is the single largest international gathering of indigenous

people in the world. Its mandate allows it to cover a wide range of issues from development and cultural to human rights questions. The fact that the Centre has been designated the coordinating body for the International Year - the first time the Centre has been designated for any Year - is an indication of its vital leadership role. It is, therefore, important that the United Nations and the Centre invest far greater resources into its indigenous peoples' programme.

20. There are a number of broad areas where improvements could be made: (a) a unit or office for indigenous people within the Centre could be established; (b) staffing could be increased through regular allocations, secondment of indigenous people by governments, associate expert programmes and fellowship grants; (c) a communications system including telefax and electronic mail facilities could be established to improve the contacts with indigenous organizations; (d) a research component of the indigenous peoples' programme could be developed to assist coordination in the United Nations system; (e) a budget line for indigenous people needs to be established in the regular human rights programme and supplemented through voluntary funds for specific forms of assistance; (f) a three-five year programme should be developed.